

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3 SPECIAL OPEN MEETING
4

5
6 Springfield, Illinois
7 Wednesday, October 14, 2009
8

9 Met, pursuant to notice, at 10:30 a.m. in the
10 Videoconference Room, Second Floor, Leland Building,
11 527 East Capitol Avenue, Springfield, Illinois.
12

13 PRESENT:

14 MR. CHARLES E. BOX, Chairman

15 MS. LULA M. FORD, Commissioner
 (via videoconference)

16 MS. ERIN M. O'CONNELL-DIAZ, Commissioner
17 (via videoconference)

18 MR. SHERMAN J. ELLIOTT, Commissioner
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20
21 SULLIVAN REPORTING COMPANY, by
 Carla J. Boehl, Reporter
22 CSR #084-002710

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1 CHAIRMAN BOX: Yes, please.

2 MRS. DIETZ: My name is Shirley Dietz. My
3 husband and I are farmers and landowners in Madison
4 County along the 55 miles of pipeline that will be
5 abandoned following construction of a new 2.2 miles
6 as explained in the administrative law judge's
7 proposed Order.

8 We are concerned that IGTC will not
9 hold true to their word in removing the pipe from our
10 property after the new line is in service. The judge
11 is requiring the company to make monthly compliance
12 reports following details made to every landowner on
13 the abandoned portion of the line over a two-year
14 period.

15 In recent correspondence -- and I
16 quote -- "Upon review of the criteria, IGTC has
17 decided to remove the pipeline within the easement
18 that crosses your property after all replacement
19 facilities are in place and functioning. The
20 existing pipeline has been decommissioned and all
21 necessary permits and clearances associated with the
22 removal are obtained."

1 What kind of permits or clearances
2 would tillable farm ground need? Our concern is that
3 all this activity may take longer than the two years
4 the judge set forth in his monthly reports. The
5 company wants to get the new interconnection finished
6 in 2009. 2009 is about over, putting all other dates
7 behind schedule. It may take longer than two years
8 before abandoned pipeline can be removed if IGTC
9 follows through.

10 I feel that once the two years are up,
11 landowners will be left by the wayside. This pipe
12 can be dangerous to farming operations if it is hit.
13 Therefore, we are asking the Commission to put in
14 your final ruling that IGTC remove the pipe from the
15 abandoned line from all landowners who request the
16 pipe be removed within a two-year period from the
17 time the new line goes into service. This was
18 encouraged by IGTC staff.

19 If the company is unable to comply in
20 that time frame, extend it another year. We feel
21 that adding a year to the ruling should give the
22 company ample time to get all necessary permits and

1 activities related to abandonment finished, including
2 removing the pipe from any landowner who wants the
3 pipe removed. After that time, do whatever is meant
4 by "will not be viewed favorably by the Commission"
5 as stated in the proposed order, page 18, and inform
6 landowners what recourse we may have if IGTC does not
7 remove the pipe from our ground in that time frame.

8 Thank you for giving me this
9 opportunity.

10 CHAIRMAN BOX: Thank you. Second request is
11 from Mr. Darrell Becker.

12 MR. BECKER: I am here regarding Docket
13 09-0054. And I am Darrell Becker, and I am
14 representing my parents Clifford and Mildred Becker
15 who are landowners of property the pipeline owned by
16 IGTC/CenterPoint Energy passes through that is going
17 to be abandoned.

18 First, we are requesting that a
19 timeline or time limitation for CenterPoint Energy to
20 remove the pipeline and all equipment from the
21 landowners' property be imposed by the ICC. While we
22 do have a letter from Dustin Green, manager of

1 right-of-ways for CenterPoint Energy, agreeing to
2 remove the pipeline from our property, they have not
3 agreed to a definitive time frame within which this
4 would be done. Their statement of within one year
5 after all activities for the abandonment of the
6 entire pipeline is completed, quote, seems to be very
7 vague, open ended and non-committal.

8 We are concerned that they will in
9 fact follow through with this agreement and do so in
10 a reasonable amount of time. The pipeline is unsafe
11 on our farm for farming operations, as it is too
12 shallow and prevents normal tillable activities.

13 We have repeatedly requested a more
14 restrictive or definitive time frame but have not
15 received it. We request that the one-year time
16 period be based on completion and usage of the new
17 pipeline and the discontinued use of the old pipeline
18 being abandoned. We request that ICC include this or
19 a similar requirement as to the removal of the
20 pipeline and all other equipment within a certain
21 amount of time.

22 Secondly, we are requesting that

1 either the ICC require CenterPoint Energy to remove
2 the pipeline and all equipment from all landowners'
3 property that request it, as per Mr. Mark Maple's
4 testimony and his recommendation, or that the ICC put
5 in place some type of recourse or process for appeal
6 for landowners who do not feel that they are being
7 treated fairly or are not having their request for
8 removal of the pipeline honored by CenterPoint
9 Energy.

10 We do not feel that Judge Albers
11 recommendation that CenterPoint Energy be required to
12 file reports with ICC for a period of two years
13 regarding their dealings with landowners is
14 sufficient unless CenterPoint Energy is required to
15 have all landowner requests settled by that time
16 frame. As CenterPoint Energy has stated, this
17 process may not be completed within the two years.

18 It also does not provide for any
19 requirement that the landowners be notified of
20 CenterPoint Energy's reports to the ICC or allow for
21 a reporting or field process for the landowners in
22 order for them to seek resolution to any conflicts or

1 disputes with CenterPoint Energy regarding the
2 removal of the pipeline and other equipment within a
3 reasonable amount of time.

4 We feel this is necessary in order for
5 the landowners to have some degree of assurance that
6 they will be treated fairly and in a timely manner
7 and to have some recourse.

8 Thank you.

9 CHAIRMAN BOX: Thank you, Mr. Becker.

10 On the Transportation agenda, Item 1
11 is a petition by DuPage County to construct a
12 bicycle-pedestrian bridge over the Elgin, Joliet and
13 Eastern Railway. The project is estimated to cost
14 \$1,925,700 and will be funded by a federal grant and
15 the County's own matching funds. No Grade Crossing
16 Protection Funds have been requested. Administrative
17 Law Judge Kirkland-Montague recommends entering the
18 Order, granting the petition.

19 Is there a motion to enter the Order?

20 COMMISSIONER ELLIOTT: So moved.

21 CHAIRMAN BOX: Is there a second?

22 COMMISSIONER O'CONNELL-DIAZ: Second.

1 CHAIRMAN BOX: It's been moved and seconded.
2 All in favor say "aye."
3 COMMISSIONERS: Aye.
4 CHAIRMAN BOX: Any opposed?
5 The vote is 4-0. The Order is
6 entered.
7 Ms. Kelly, are you with us in Chicago?
8 COMMISSIONER O'CONNELL-DIAZ: No, she is not.
9 (Whereupon the meeting
10 concluded matters pertaining to
11 Transportation.)
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1 (Whereupon the meeting
2 turned to Public Utility
3 matters.)

4 CHAIRMAN BOX: Moving on to the Public Utility
5 agenda, first of all we are holding Item 11.

6 Items 1, 3, and 5 will be taken
7 together. These are tariff filings by the three
8 Ameren Illinois utilities governing the purchase of
9 receivables and utility consolidated billing for
10 customers of ARES. Staff recommends not suspending
11 the filings, allowing them to go into effect.

12 Is there a motion to not suspend the
13 filings?

14 COMMISSIONER ELLIOTT: So moved.

15 CHAIRMAN BOX: Is there a second?

16 COMMISSIONER O'CONNELL-DIAZ: Second.

17 CHAIRMAN BOX: It has been moved and seconded.
18 All in favor say "aye."

19 COMMISSIONERS: Aye.

20 CHAIRMAN BOX: Any opposed say "nay"?

21 The vote is 4-0. The filings will not
22 be suspended.

1 We will use this 4-0 roll call vote
2 for the remainder of the Public Utilities agenda,
3 unless otherwise noted.

4 Items 2, 4 and 6 will be taken
5 together. These are tariff filings by the three
6 Ameren Illinois utilities to modify their Rate DS-5
7 (Lighting Service), Rider RMC (Rate Mitigation
8 Credit) and Rider CRM (Commercial Rate Mitigation
9 Credit). These filings are to implement recent
10 legislative changes in Congress and the Illinois
11 General Assembly. Staff recommends not suspending
12 the filings.

13 Is there any discussion? Any
14 objections? Hearing none, the filings will not be
15 suspended.

16 Item 7 is Docket 09-0249. This is a
17 billing complaint between Deborah Ying-Thomas and
18 Commonwealth Edison Company. The parties have
19 settled and moved to dismiss. Administrative Law
20 Judge Sainsot recommends dismissing this docket with
21 prejudice.

22 Is there any discussion? Any

1 objections? Hearing none, this docket is dismissed,
2 with prejudice.

3 Item 8 is Docket 09-0263. This matter
4 concerns the AMI Pilot Program filed by Commonwealth
5 Edison Company. This culminates the AMI workshop
6 process initiated by Commonwealth Edison's last rate
7 case. Administrative Law Judges Sainsot and Kimbrel
8 recommend entering the Order.

9 Administrative Law Judges Sainsot and
10 Kimbrel, are you with us in Chicago?

11 JUDGE SAINSOT: We are.

12 CHAIRMAN BOX: Can you please explain this
13 Order to us briefly?

14 JUDGE SAINSOT: I will give you a brief
15 overview of the program. This program was originally
16 authorized by the Commission in Docket 07-0566 which
17 is ComEd's last rate case. In that docket this
18 Commission permitted right of recovery of the cost of
19 a program for advanced meters after workshops were
20 conducted to develop the program. The workshops have
21 now taken place and ComEd has developed that program.

22 In this program ComEd will install

1 approximately 131,000 advanced meters and some
2 infrastructures in nine towns that surround its
3 Maywood operating area. There will also be some
4 meters deployed to Chicago residents and the
5 residents of Tinley Park. Most of the participants
6 will be residential or small commercial customers.

7 ComEd's program -- oh, the total cost
8 is approximately 61 and a half million dollars.

9 ComEd's program, which hopefully will
10 be half funded by federal stimulus funds, tries to
11 change customer behavior. It does this by arming
12 participants with knowledge about how they can save
13 money through the use of the advanced meters for
14 altering their electricity usage. The program also
15 amasses the effect that a person's demographic
16 information has on that person's energy consumption
17 data.

18 The program will test consumer
19 reactions to six different types of alternative rates
20 in conjunction with advanced meters. All of the
21 alternative rates discourage usage during peak time.

22 Teaching people to change their usage

1 patterns can benefit all of ComEd's customers.

2 Reducing the use of big ticket electrical items like
3 air conditioning during peak times reduces the need
4 for very expensive electric peaking plants which in
5 turn reduces the costs of electricity for everyone.

6 And, finally, this program will
7 include a detailed report to the Commission regarding
8 any cost savings that ComEd experiences. There will
9 also be an annual reconciliation of the expenses, and
10 there is a 110 percent cap on the expenditures for
11 the customer application program which is part of the
12 whole program.

13 Any questions?

14 CHAIRMAN BOX: Judge, if I can refer you to
15 page 51 of your Order, can you just briefly tell us,
16 where you speak to the \$50 payment or credit, who
17 would receive that and the conditions under which, I
18 think, the initial survey and final survey must be
19 completed for them to be eligible for the \$50?

20 JUDGE SAINSOT: Right.

21 CHAIRMAN BOX: And the equipment would be
22 removed if they wanted it removed?

1 JUDGE SAINSOT: Right.

2 CHAIRMAN BOX: But in order to get the \$50,
3 they would have to be involved from the beginning
4 survey and the survey at the end of the pilot
5 program?

6 JUDGE SAINSOT: That's correct. The only --
7 what this addresses is the customers that switch to
8 an alternative supplier. And what this portion of
9 the Order does is find that these alternative -- that
10 even if a customer switches to an alternative
11 supplier, that customer will still receive these
12 benefits.

13 CHAIRMAN BOX: But they would also have to
14 complete the final survey at the end.

15 JUDGE SAINSOT: That's correct.

16 CHAIRMAN BOX: Okay. That's all the questions
17 I had. Any other questions of the judge?

18 COMMISSIONER O'CONNELL-DIAZ: Judge Sainsot,
19 with regard to -- in that same area of the Order with
20 regard to the requirement of ComEd to notify program
21 participants that they can take service from a RES,
22 what exactly does that mean? Does that mean -- what

1 does that mean? An advertising program or what does
2 it mean?

3 JUDGE SAINSOT: Just a statement when they
4 initially interview these people. You don't have to
5 take electricity from us; you can take it from an
6 alternative supplier.

7 COMMISSIONER O'CONNELL-DIAZ: So it doesn't --
8 the Company is not going to incur costs borne by
9 other ratepayers for advertising the program relative
10 to this notification process?

11 JUDGE SAINSOT: No, I wouldn't think so. I
12 would think it would be simple and neat.

13 CHAIRMAN BOX: Any further questions for the
14 judges? Okay. Any discussion?

15 The administrative law judges
16 recommend entering the Order. Are there any
17 objections? Hearing none, the Order is entered.

18 I would like to thank the judges and
19 all the participants in this. I know we moved up the
20 timetable about a month ago to get this done as soon
21 as possible so that, obviously, the company would be
22 eligible for federal funds, at least put their best

1 proposal forward, and it required a lot of hard work
2 on everybody's part. I want to thank you for doing
3 that.

4 COMMISSIONER O'CONNELL-DIAZ: Chairman, before
5 you move on, I know that our assistants were all
6 working on some minor typographical and grammatical
7 revisions to the Order. I believe those have been
8 circulated. There are no substantive changes
9 contained in those changes, and I would move for
10 approval of those changes to the Order before us.

11 CHAIRMAN BOX: Is there a second?

12 COMMISSIONER ELLIOTT: Second.

13 CHAIRMAN BOX: It's been moved and seconded.

14 All in favor say "aye."

15 COMMISSIONERS: Aye.

16 CHAIRMAN BOX: Opposed?

17 The Order is approved. The amendments
18 to the Order are approved.

19 Is there a motion to accept the Order
20 as amended?

21 COMMISSIONER ELLIOTT: So moved.

22 CHAIRMAN BOX: Second?

1 COMMISSIONER O'CONNELL-DIAZ: Second.

2 CHAIRMAN BOX: It has been moved and seconded
3 to accept the order as amended. All in favor say
4 "aye."

5 COMMISSIONERS: Aye.

6 CHAIRMAN BOX: Opposed?

7 The Order is adopted as amended.

8 COMMISSIONER O'CONNELL-DIAZ: And, Chairman, I
9 would also like to thank our judges and all the
10 parties. I know we have upped the time schedule on
11 this and probably caused some sleepless nights for
12 folks. But this is -- I think the Commission has
13 viewed this as a very important, critical step moving
14 forward, and I appreciate them accomplishing those
15 deadlines that we changed on them, and understand
16 that a lot of hard work went into this. So I thank
17 all parties.

18 CHAIRMAN BOX: Item 9 is Docket 09-0414. The
19 Royal Bank of Scotland has petitioned for a
20 certification as an ARES. The Order finds that the
21 applicant has failed to demonstrate that it meets the
22 requirements, and Administrative Law Judge Yoder

1 recommends entering the Order denying the requested
2 certificate.

3 Is there any discussion? Any
4 objections? Hearing none, the Order is entered.

5 Item 10 is 09-0426. Commonwealth
6 Edison Company has petitioned to enter a credit
7 arrangement that includes a party with an affiliated
8 interest. Staff has determined that compensation
9 paid to the party in question is commensurate with
10 compensation paid to other participating
11 institutions. Administrative Law Judge Hilliard
12 recommends entering the Order approving the request.

13 Is there any discussion? Any
14 objections? Hearing none, the Order is entered.

15 As indicated earlier, we are holding
16 Item 11.

17 Item 12 is Docket 09-0054.
18 CenterPoint Energy has petitioned to construct a
19 2.2-mile natural gas pipeline to replace a 55-mile
20 section of deteriorated pipe which will be abandoned.
21 Administrative Law Judge Albers recommends entering
22 the Order granting the requested relief in part.

1 Judge Albers, are you available? Can
2 you brief us on this?

3 JUDGE ALBERS: Right here. In this docket IGTC
4 operates 73 miles of pipeline down in the Monroe
5 County area and they are proposing to -- I am sorry,
6 the Madison County area. And they are proposing to
7 abandon 55 miles of that because inspections reveal
8 that it has deteriorated, is no longer practical or
9 even safe to use in the future. And they believe
10 they can replace that with a 2.2-mile pipeline that
11 will link up at another point on someone else's
12 pipeline and still serve the same customers the same
13 amount of gas.

14 The primary issues in this were
15 whether or not the pipeline should be ordered to
16 remove all of the pipe as whenever requested by an
17 owner of the easement, of the property adjacent to
18 the easement, and whether or not the Commission has
19 authority to require the company to give back the
20 easement once the pipeline has been abandoned.

21 I can go into detail on those two
22 issues.

1 CHAIRMAN BOX: If you would.

2 JUDGE ALBERS: Sure. On the question of
3 whether or not the Commission has authority to
4 require the pipeline be removed, I believe under
5 Section 8-503 the Commission has such authority.
6 However, I stopped short of recommending the company
7 be required to remove it whenever requested by a
8 property owner because, not being familiar with each
9 parcel of land, I am not sure there would be
10 circumstances which would override a particular
11 property owner's request the pipeline be removed.

12 Therefore, I suggest that the
13 Commission require the company to work with each
14 individual property owner to evaluate their
15 particular situation, and then I also recommend
16 adopting Staff's suggestion that the company would be
17 required to file monthly reports detailing how they
18 have resolved each landowner's request. There was no
19 particular deadline or time frame for submitting
20 those reports. So I said two years. If the
21 Commission believes three years or four years is more
22 appropriate, I don't see any problem with that. And

1 it is my impression from the record the company would
2 not object to that, either.

3 CHAIRMAN BOX: What were the timetables for
4 Staff's --

5 JUDGE ALBERS: Just for how long they should
6 file monthly reports.

7 COMMISSIONER FORD: Judge Albers?

8 JUDGE ALBERS: Yes.

9 COMMISSIONER FORD: How many property owners
10 are we talking about in this 55-mile stretch?

11 JUDGE ALBERS: I can answer that, but it might
12 take a minute.

13 COMMISSIONER FORD: Fine. And another
14 situation was, were they paid up front for these
15 easements?

16 JUDGE ALBERS: These easements, I believe some
17 of them are close to 80 years old. So whatever they
18 were paid was whatever the market value was then.

19 COMMISSIONER FORD: That's fine.

20 JUDGE ALBERS: And it might have been different
21 owners, as well.

22 COMMISSIONER FORD: I guess because I sit on

1 that National Pipeline Committee, if it is
2 deteriorated and over a hundred years old, I would
3 think that the property owners would be very
4 appreciative of the fact that they can replace that
5 pipe within 2.2 miles.

6 JUDGE ALBERS: Nobody -- I am sorry, go ahead.

7 COMMISSIONER FORD: Go on.

8 JUDGE ALBERS: Nobody objects to the
9 abandonment of the pipeline.

10 CHAIRMAN BOX: But the question is the removal,
11 when does it occur and at whose initiation.

12 JUDGE ALBERS: Right.

13 COMMISSIONER ELLIOTT: Is the issue about, you
14 know, other agencies, and you talk about some of them
15 in the Order, you are unsure of who would be -- is
16 it, I mean, I am looking at it from the perspective
17 they were granted the ability to put in the pipeline.

18 JUDGE ALBERS: Yes.

19 COMMISSIONER ELLIOTT: So the assumption is
20 that something has changed since that date where
21 there may be some historical or archeological aspects
22 attributed to the land that for some reason --

1 JUDGE ALBERS: The record doesn't reflect. I
2 just don't know, is the short answer. The record
3 doesn't reflect any details about any particular
4 parcel. So I don't, you know, want to assume nothing
5 has changed.

6 COMMISSIONER ELLIOTT: Assume the law has
7 changed with the land use over the last hundred
8 years, it is easy to assume.

9 CHAIRMAN BOX: I think you also said that this
10 Commission has the authority to order removal.

11 JUDGE ALBERS: I believe so.

12 In answer to your question of how many
13 property owners are affected by the removal -- I am
14 sorry, going to be careful with the words I use -- by
15 the abandonment of the pipeline, there were 267
16 parcels identified to receive notice of the
17 abandonment.

18 COMMISSIONER FORD: Okay.

19 COMMISSIONER O'CONNELL-DIAZ: Judge Albers,
20 with regard to these monthly reports that our staff
21 will be filing, if it appears that there is a
22 necessity to increase the time that these activities

1 are going on to accomplish the removal of these --
2 or, yeah, the removal of the pipe, wouldn't that be
3 something that staff would alert the Commission to
4 and, in fact, we would revisit the issue of the
5 period of time that is provided for in this order?

6 JUDGE ALBERS: Well, yeah, I contemplated that
7 and I alluded to it in the Order, that staff would be
8 reviewing these monthly reports as they came in. And
9 then if there were some reason to revisit these
10 issues, I would expect staff to bring it to the
11 Commission.

12 COMMISSIONER O'CONNELL-DIAZ: So technically we
13 would like reopen the record or --

14 JUDGE ALBERS: I would think that would be one
15 way -- the way to do it, yes.

16 COMMISSIONER O'CONNELL-DIAZ: So from what you
17 are saying, the timelines that are covered in this
18 Order are not concrete timelines, but are timelines
19 that in fact will be responsive to the reports that
20 our staff will be filing on a monthly basis. So we
21 could tailor it to the particular situations as they
22 may or may not arise.

1 JUDGE ALBERS: Right. There was no particular
2 reporting period proposed. And in the absence I
3 thought there ought to be some limit on how long the
4 company should have to file reports. And because I
5 understand the company is wanting to get this project
6 done in roughly two years, that being construction,
7 initiated and completed, and removal of those
8 facilities they have already identified that they
9 want to remove being done in two years, I just
10 figured two years was reasonable. But, again, if
11 someone feels that more time is appropriate, I
12 certainly wouldn't argue against that.

13 CHAIRMAN BOX: So you are saying there is
14 certain facilities the company would want removed?

15 JUDGE ALBERS: They can come in and offered
16 that they were going to remove any aboveground
17 facilities already.

18 CHAIRMAN BOX: What about individual landowners
19 or parcel holders that would like it removed from
20 their property? What is the method of how they would
21 go about getting it removed or at least beginning the
22 discussion?

1 JUDGE ALBERS: They would approach the company
2 or the company would approach them in terms of, you
3 know, as far as the dialogue that would occur. That
4 individual property owner would, as I understand it,
5 make the request that this pipeline on my property be
6 removed, and then the company has some criteria that
7 they identified that they would evaluate that request
8 under those criteria to see if there was, as
9 indicated earlier, you know, other governmental
10 regulations that would relate to that request, and
11 evaluate how that request should be resolved.

12 CHAIRMAN BOX: How would that -- if there was a
13 difference of opinion, the homeowner saying that they
14 wanted it out or it should be out and the company is
15 saying it doesn't meet the criteria, how would that
16 be resolved?

17 JUDGE ALBERS: I suspect that would show up in
18 the report to staff and, additionally, I believe the
19 property owners are free to come back to the
20 Commission and request that this matter be reopened
21 to address the company acting in bad faith, if they
22 believe the company is acting in bad faith.

1 COMMISSIONER ELLIOTT: But if it is another
2 agency, a state agency or something affected with
3 land use issues that raises the objection that shows
4 up, would they be able to seek relief through that
5 agency or -- that's what I am --

6 JUDGE ALBERS: Could the property owner seek
7 relief through the other agency?

8 COMMISSIONER ELLIOTT: Right. It seems like it
9 is not our jurisdiction at that point; it becomes
10 someone else's.

11 JUDGE ALBERS: I am not sure, to be honest with
12 you. I don't know what the agency rules are.

13 CHAIRMAN BOX: Can the staff handle this? Say
14 you had 140 owners who want it removed. Do they have
15 the staff to go through it timely, review all the
16 information, go through the criteria and make the
17 recommendation?

18 JUDGE ALBERS: Does the company?

19 CHAIRMAN BOX: The company, yes.

20 JUDGE ALBERS: They say they will address all
21 the requests they receive. So I can take that for
22 whatever it is worth.

1 COMMISSIONER ELLIOTT: It appears they have
2 indicated a willingness to work with the landowners
3 to do this.

4 JUDGE ALBERS: Yeah.

5 COMMISSIONER ELLIOTT: Barring any restrictions
6 outside of their --

7 JUDGE ALBERS: Right, anything beyond their
8 control. I sense that some of the landowners just
9 are concerned that the company may not honor their
10 commitment to work with them once they get the
11 permission to build the 2.2-mile segment.

12 CHAIRMAN BOX: But your Order is strong enough
13 to know that there is a process for them to use with
14 the company if there is no satisfaction there, to
15 reopen this case and it would get back to the
16 Commission.

17 JUDGE ALBERS: It doesn't spell that out. But
18 I mean, given what our rules are, they are free, if
19 they believe -- the Order requires the company to act
20 in good faith with the property owners and that's
21 spelled out. If they don't act in good faith, even
22 though it is not spelled out in the order, I believe

1 the property owners are free to come back to the
2 Commission and request the Commission revisit this.

3 CHAIRMAN BOX: Was there any evidence during
4 the hearing in the case of certain areas that would
5 be removed because it is too shallow or other things
6 that might have occurred over the years that might
7 make it environmentally sound to do it now?

8 JUDGE ALBERS: Yes. In particular it sounds
9 like there are areas of agriculture, of farm fields,
10 where just through erosion and natural processes
11 there is less soil above the pipeline, and the
12 company indicated that where the pipeline has been
13 exposed through erosion, they would be removing that
14 as well. And I put in the order that, if it just
15 even comes close to the surface but not actually
16 exposed, that should be considered and removed as
17 well, assuming no other prohibitions.

18 CHAIRMAN BOX: You would think they would want
19 to do it in anyway because, if the equipment is
20 damaged, if there has been a dispute and they say,
21 no, we are not going to take it out, it is not deep
22 enough or it is down far enough, they would, I think,

1 open themselves up to liability.

2 JUDGE ALBERS: I would think so, but that would
3 be my speculation. But I would think so, too, that
4 they would be interested in trying to avoid those
5 problems.

6 CHAIRMAN BOX: Any other questions or comments
7 for the judge?

8 COMMISSIONER O'CONNELL'DIAZ: Just so that I am
9 clear, Judge Albers, as I see it we have two avenues
10 of redress for landowners. It is the interaction
11 with the company and the staff reports that will be
12 filed over the two-year period that will keep the
13 Commission apprised as to what's going on and
14 problems.

15 Additionally, since this is an
16 easement situation, a court of competent jurisdiction
17 -- which is not the Commission because we do not have
18 jurisdiction in that area -- could also entertain an
19 action at any time relative to the easement, the
20 return of the easement or anything having to do with
21 that easement.

22 Would that be two avenues of redress

1 for landowners?

2 JUDGE ALBERS: I agree.

3 COMMISSIONER ELLIOTT: And I think a third
4 would be that, you know, if the good faith question
5 comes into mind, that they could certainly come to
6 the Commission and request to reopen this proceeding
7 and take a further in-depth look at this issue.

8 JUDGE ALBERS: Yes.

9 CHAIRMAN BOX: Any further questions for the
10 judge?

11 The judge recommends entering the
12 Order. Are there any objections? Hearing none, the
13 Order is entered. Judge, thank you very much.

14 Items 13 (09-0261) and 15 (09-0366)
15 will be taken together. These are petitions by
16 telecommunications providers to discontinue and/or
17 cancel their certificates. Administrative Law Judge
18 Haloulos recommends entering the Orders granting the
19 requests. Is there any discussion? Any objections?
20 Hearing none, the Orders are entered.

21 Items 14 (09-0339) and 16 (09-0394,5)
22 will be taken together. These are applications by

1 various companies for certificates to provide various
2 telecommunications services. Administrative Law
3 Judge Riley recommends entering the Orders granting
4 the certificates. Is there any discussion? Any
5 objections? Hearing none, the Orders are entered.

6 That concludes today's agenda. Judge
7 Wallace, anything else to come before us today?

8 JUDGE WALLACE: Not today. Our next meeting
9 will be November 13.

10 CHAIRMAN BOX: In Chicago?

11 JUDGE WALLACE: It is in Chicago.

12 CHAIRMAN BOX: Anything else to come before us?
13 Hearing none, the meeting stands adjourned.

14 MEETING ADJOURNED

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